

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EDWARD G. WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 07-637-JJF
)	Jury Trial Demanded
CORRECTIONAL MEDICAL,)	
SERVICES, et. al.,)	
)	
Defendants.)	

STATE DEFENDANTS' ANSWER TO COMPLAINT

Defendants Carl Danberg, Thomas Carroll, and Beau Biden ("State Defendants"), by and through undersigned counsel, hereby answer Plaintiff's Complaint (D.I.2) and Amended Complaint (D.I.6).

PREVIOUS LAWSUITS

Denied that Plaintiff has not filed any other lawsuits in Federal Court relating to his imprisonment. Plaintiff (a.k.a. James Garnell Brown) has filed at least eleven (11) additional actions in Federal Court. The following nine (9) actions were dismissed as frivolous, malicious or failing to state a claim upon which relief may be granted:

1. *Brown v. Perillo*, C.A. No. 93-7117 (3d Cir. Apr. 22, 1993)
2. *Brown v. Snyder*, C.A. No. 93-156-JJF (D.Del. Mar. 26, 1993)
3. *Brown v. Ruth*, C.A. No. 93-097-SLR (D. Del. Feb. 24, 1993)
4. *Brown v. Chapman*, C.A. No. 92-405-JJF (D.Del. Jan. 28, 1993)
5. *Brown v. Perillo*, C.A. No. 92-405-JJF (D.Del. Jan. 15, 1993)
6. *Brown v. Meyers*, C.A. No. 92-592-SLR (D. Del. Oct. 16, 1992)

7. *Brown v. Capone*, C.A. No. 92-591-SLR (D.Del. Oct. 16, 1992)
8. *Brown v. Letang*, C.A. No. 92-423-SLR (D.Del. July 20, 1992)
9. *Brown v. Letang*, C.A. No. 92-422-SLR (D.Del. July 20, 1992)

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Denied that Plaintiff fully exhausted all available administrative remedies for his present claims prior to filing this lawsuit.

STATEMENT OF CLAIM

1. Denied that Plaintiff failed to receive adequate medical treatment.
2. Denied that Plaintiff failed to receive a colonoscopy.
3. Denied that Plaintiff's condition, as described in D.I.2 and D.I.6, ever required immediate surgery.
4. Denied that Plaintiff made an October 2005 request for a colonoscopy.
5. Admitted that Plaintiff received proper medical treatment for the sick call slips that he submitted.
6. Denied that the State Defendants knew of any risk to Plaintiff's health or safety.
7. State Defendants are without knowledge or information sufficient to form a belief as to the truth and accuracy of the remaining allegations in Plaintiff's Statement of Claim, and therefore deny the same.

RELIEF

1. Denied that Plaintiff is entitled to any compensatory, punitive or monetary damages.
2. Denied that Plaintiff is entitled to any injunctive, declaratory or other relief.

DEFENSES

1. Plaintiff has failed to state a claim upon which relief may be granted.
2. Plaintiff has failed to exhaust his administrative remedies.
3. This action and all claims are barred by the applicable statute of limitations.
4. State Defendants are immune from liability under the Eleventh Amendment.
5. State Defendants are entitled to qualified immunity.
6. As to any claims under state law, State Defendants are entitled to immunity under the State Tort Claims Act, 10 *Del. C.* §4001, *et. seq.*
7. As to any claims under state law, State Defendants are entitled to sovereign immunity.
8. Negligence is not a cause of action under 42 U.S.C. §1983.
9. State Defendants in their official capacities are not liable for alleged violations of Plaintiff's constitutional rights as they are not "persons" pursuant to 42 U.S.C. §1983.
10. The doctrine of *respondeat superior* is not a basis for liability in an action under 42 U.S.C. §1983.
11. State Defendants cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.
12. Service of process was improper or insufficient.
13. The Court lacks personal jurisdiction over the State Defendants and the complaint should be dismissed.

WHEREFORE, State Defendants respectfully request that judgment be entered in their favor and against Plaintiff as to all claims, and that attorney fees be awarded to them.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ *Catherine Damavandi*

Catherine Damavandi (ID # 3823)

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Delaware Department of Justice

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Attorney for State Defendants

Date: August 11, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2008, I electronically filed *State Defendants' Answer to Complaint* with the Clerk of Court using CM/ECF. I further certify that on August 11, 2008, I caused the attached *State Defendant's Answer* to be delivered to the following person by first class mail, postage prepaid:

Edward Williams, SBI#350587
JTVCC
1181 Paddock Rd.
Smyrna, DE 19977

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Catherine Damavandi
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